

# **EXHIBIT**

# **43**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TRAVELERS CASUALTY AND SURETY COMPANY as  
Administrator for RELIANCE INSURANCE COMPANY,

Plaintiff,

- against -

DORMITORY AUTHORITY – STATE OF NEW YORK,  
TDX CONSTRUCTION CORP., and KOHN PEDERSEN  
FOX ASSOCIATES, P.C.,

Defendants.

DORMITORY AUTHORITY OF THE STATE OF NEW  
YORK and TDX CONSTRUCTION CORP.,

Third-Party Plaintiffs,

- against -

TRATAROS CONSTRUCTION, INC.,

Third-Party Defendant.

TRATAROS CONSTRUCTION, INC. and TRAVELERS  
CASUALTY AND SURETY COMPANY,

Fourth-Party Plaintiffs,

- against -

CAROLINA CASUALTY INSURANCE COMPANY,  
BARTEC INDUSTRIES, INC., DAYTON SUPERIOR  
SPECIALTY CHEMICAL CORP. a/k/a DAYTON SUPERIOR  
CORPORATION, SPECIALTY CONSTRUCTION BRANDS,  
INC. t/a TEC, KEMPER CASUALTY INSURANCE  
COMPANY d/b/a KEMPER INSURANCE COMPANY,  
GREAT AMERICAN INSURANCE COMPANY,  
NATIONAL UNION FIRE INSURANCE COMPANY OF  
PITTSBURGH, PA., UNITED STATES FIRE INSURANCE  
COMPANY, ALLIED WORLD ASSURANCE COMPANY  
(U.S.) INC. f/k/a COMMERCIAL UNDERWRITERS  
INSURANCE COMPANY, ZURICH AMERICAN  
INSURANCE COMPANY d/b/a ZURICH INSURANCE  
COMPANY, OHIO CASUALTY INSURANCE COMPANY  
d/b/a OHIO CASUALTY GROUP, HARLEYSVILLE  
MUTUAL INSURANCE COMPANY (a/k/a  
HARLEYSVILLE INSURANCE COMPANY), JOHN DOES  
1-20 AND XYZ CORPS. 1-20,

Fourth-Party Defendants.

Case No.  
07 Civ. 6915 (DLC)

**DEFENDANT DORMITORY  
AUTHORITY OF THE  
STATE OF NEW YORK'S  
INITIAL DISCLOSURES**

Pursuant to Fed. R. Civ. P. 26(a)(1), defendant Dormitory Authority of the State of New York ("DASNY"), by its undersigned counsel, makes the following initial disclosures:

A. The name and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless solely for impeachment, identifying the subjects of the information.

INDIVIDUAL	SUBJECTS OF INFORMATION
Jay Goldstein c/o DASNY One Penn Plaza 52nd Floor New York, New York 10119-0098 (212) 273-5000	Administration of Project, primarily after substantial completion.
Chuck Bartlett c/o DASNY 515 Broadway Albany, New York 12207-2964 (518) 257-3000	Review and administration of requests for contract adjustments and claims.
Douglas M. Van Vleck c/o DASNY 515 Broadway Albany, New York 12207-2964 (518) 257-3000	Administration of DASNY's construction program and administration of the Project.
Enrico J. Bianchi AIA c/o DASNY 515 Broadway Albany, New York 12207-2964 (518) 257-3000	Administration of Project.
Michael Kolk AIA c/o DASNY One Penn Plaza 52nd Floor New York, New York 10119-0098 (212) 273-5000	Administration of Project.
Nicholas D'Ambrosio c/o DASNY One Penn Plaza	Management and administration of Project construction.

52nd Floor New York, New York 10119-0098 (212) 273-5000	
John Mueller c/o DASNY 515 Broadway Albany, New York 12207-2964 (518) 257-3000	Review and administration of requests for contract adjustments and claims.
James H. Jones, P. E. c/o TDX Construction Corp. 345 Seventh Avenue New York, New York 10001 (212) 279-1981	Management of Project.
John McCullough c/o STV Construction 225 Park Ave. South New York, New York 10003 (212) 777-4400	Management of Project construction.
Ray Leu c/o TDX Construction 345 Seventh Avenue New York, New York 10001 (212) 279-1981	Management of Project construction.
James R. Jones c/o TDX Construction 345 Seventh Avenue New York, New York 10001 (212) 279-1981	General Project administration.
Anthony Mockler c/o TDX Construction 345 Seventh Avenue New York, New York 10001 (212) 279-1981	General Project administration.
Boris Alperovich c/o TDX Construction 345 Seventh Avenue New York, New York 10001 (212) 279-1981	General Project administration.
John Barrera	General Project administration.

c/o TDX Construction 345 Seventh Avenue New York, New York 10001 (212) 279-1981	
William Larson-White c/o TDX Construction 345 Seventh Avenue New York, New York 10001 (212) 279-1981	Administration with respect to Project's mechanical systems.
Tom Spinthourakis c/o TDX Construction 345 Seventh Avenue New York, New York 10001 (212) 279-1981	General Project administration; Trataros' work on Project.

DASNY reserves the right to supplement, amend or modify this list as discovery in this action progresses.

B. A copy of, or a description by category and location of, all documents, electronically stored information, and tangible things that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment.

The categories of information that DASNY may use include the following: bid proposals, budgets, estimates, contracts, bulletins, addenda, subcontracts, payment and performance bonds, plans, drawings, specifications, shop drawings, submittals, change order proposals, change orders, claims, correspondence, memoranda, transmittals, notices of direction, schedules, payment applications and supporting documentation, daily reports, monthly progress reports, manpower reports, requests for information, testing reports, inspection reports, punch lists, meeting minutes, photographs and videotapes. This information is presently located at Baruch College, Information and Technology Building, 151 E. 25<sup>th</sup> Street, New York, New York.

DASNY reserves the right to supplement, amend or modify this list as discovery in this action progresses.

C. A computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered.

DASNY is seeking the following categories of damages from Travelers and/or Trataros in this case:

- Additional costs paid to Trataros' subcontractors attributable to Trataros' delays, disruptions and impacts – \$1,805,621.
- Additional costs paid to other Prime Contractors attributable to Trataros' delays, disruptions and impacts – \$4,651,373.
- Additional project management and administrative costs attributable to Trataros' delays, disruptions and impacts – \$2,155,039.
- Cost to replace defective epoxy terrazzo flooring – estimated to cost at least \$20,000,000.

DASNY is seeking the following categories of damages from KPF in this case:

- Additional costs paid to Trataros' subcontractors attributable to KPF's design errors and/or omissions – \$2,800,149.
- Additional costs paid to Prime Contractors attributable to KPF's design errors and/or omissions - \$7,800,050.
- Additional project management and administrative costs attributable to KPF's design errors and/or omissions – \$5,897,617.
- Unreimbursed costs attributable to foundation design - \$9,588,318.

- Potential liability for allegedly defective design of automatic temperature control systems - \$11,200,000.
- Cost to remediate snow/ice accumulation issues attributable to design errors and/or omissions – estimated to cost at least \$8,500,000.

Documents upon which DASNY's damages calculations are based will be made available for inspection and copying at Baruch College, Information and Technology Building, 151 E. 25<sup>th</sup> Street, New York, New York, at such date and time as can be mutually agreed upon by counsel. DASNY reserves the right to supplement, amend or modify its damages calculations as discovery in this action progresses.

D. Any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy a judgment.

Upon information and belief, DASNY does not control any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments made to satisfy the judgment.

Dated: New York, New York  
November 27, 2007

HOLLAND & KNIGHT LLP  
*Attorneys for Defendants Dormitory Authority of the State of New York and TDX Construction Corp.*

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